

# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

REC'D 06 AUG 2004

WIPO PCT

Applicant's or agent's file reference ES032PCT	<b>FOR FURTHER ACTION</b>		See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)
International application No. PCT/CH 02/00349	International filing date (day/month/year) 26.06.2002	Priority date (day/month/year) 26.06.2002	
International Patent Classification (IPC) or both national classification and IPC A61B5/042			
Applicant ENDONSENSE S.A.R.L. et al.			

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
  
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
 

☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 5 sheets.

3. This report contains indications relating to the following items:
 

I    ☒ Basis of the opinion

II   ☐ Priority

III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability


IV   ☐ Lack of unity of invention

V    ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

VI   ☐ Certain documents cited

VII ☐ Certain defects in the international application

VIII ☐ Certain observations on the international application

Date of submission of the demand  21.01.2004	Date of completion of this report  05.08.2004
Name and mailing address of the International preliminary examining authority:   European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer  Schoeffmann, H  Telephone No. +49 89 2399-2625



**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. **PCT/CH 02/00349**

**I. Basis of the report**

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

**Description, Pages**

4-7 as originally filed  
1-3, 3a filed with telefax on 23.07.2004

**Claims, Numbers**

1-5 filed with telefax on 23.07.2004

**Drawings, Sheets**

1/3-3/3 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).  
☐ the language of publication of the international application (under Rule 48.3(b)).  
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).
3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:
- ☐ contained in the international application in written form.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority in written form.  
☐ furnished subsequently to this Authority in computer readable form.  
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.  
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:  
☐ the claims, Nos.:  
☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY  
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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

**III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 1-4

because:

☒ the said international application, or the said claims Nos. 1-4 relate to the following subject matter which does not require an international preliminary examination (specify):

**see separate sheet**

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☐ no international search report has been established for the said claims Nos.

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the Standard.

☐ the computer readable form has not been furnished or does not comply with the Standard.

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	5
	No: Claims	
Inventive step (IS)	Yes: Claims	5
	No: Claims	
Industrial applicability (IA)	Yes: Claims	5
	No: Claims	

2. Citations and explanations

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**see separate sheet**

**Section III:**

1. For the assessment of the present claims 1-4 on the question whether they are industrially applicable, no unified criteria exist in the PCT. The IPEA therefore is not required to carry out an examination on these claims (Cf. Rule 67.1(iv) PCT).

The patentability may be dependent upon the formulation of the claims. The EPO, for example, does not recognize as industrially applicable the subject-matter of claims to methods of treatment of the human or animal body by surgery or therapy and diagnostic methods practised on the human or animal body.

The above claims pertain to a method of cardiac catheterisation which is considered surgical in its nature as it implies the insertion of a catheter into the human or animal body, be it by way of incision or by using natural body orifices. Thereby the entire method is rendered surgical. Methods of surgery might not be regarded as an invention susceptible of industrial application.

**Section V:**

1. Claim 5 relates to a cardiac catheterisation system comprising a catheter and a processor for detecting and analysing the position of the catheter within the heart. The catheter is provided with a dipole for position detection. A system of that kind is disclosed in US 6370 412 which is considered closest prior art.

Problems might occur in detecting the catheter position when its tip is inverted. This problem is overcome by additional use of a flow-sensor for detection of blood flow direction so that an inadvertent catheter inversion may be reliably transformed into GO, STOP and END commands given by the processor to the operator. As the distinguishing feature is not shown in any of the prior art documents cited in the ISR, claim 5 is considered to meet the requirements of Art.33 (2)-(4) PCT.